



January 25, 2021

VIA ELECTRONIC FILING

Josh Mingos, Esquire
Public Service Commission of South Carolina
101 Executive Center Drive
Columbia, South Carolina 29210

RE: Bernard McFadden v. Dominion Energy South Carolina, Inc.
Motion to Dismiss of Dominion Energy South Carolina, Inc.
Docket No. 2020-240-E

Dear Mr. Mingos:

By this letter, Dominion Energy South Carolina, Inc. ("DESC" or "Company") requests that the Public Service Commission of South Carolina ("Commission") dismiss Mr. Bernard McFadden's Complaint for his failure to comply with the instructions contained in Commission's Prefile Testimony Letter, dated November 23, 2020, and specifically his failure to file direct testimony and exhibits by January 20, 2021. In the alternative, the Company requests that the Commission enter judgment in favor of the Company based on the evidence of record.

On or about October 8, 2020, Mr. McFadden commenced the instant action by filing a complaint with the Commission. By letter dated October 20, 2020, DESC timely filed its Answer and Motion to Dismiss the Complaint on the ground that it fails to state a claim upon which relief can be granted. In its Answer and Motion to Dismiss, DESC included the sworn affidavits of Ms. Brandy Kent, the DESC Energy Services Representative who conducted an in-field electric meter test on the meter located at Mr. McFadden's residence, and Ms. Cindi Hux, a DESC Supervisor-Customer Account Management. Customer Service-Quality Assurance.¹ By directive dated November 18, 2020 ("Directive"), the Commission voted to deny the Motion to Dismiss and further directed the Chief Clerk to set the matter for a hearing and to set deadlines for pre-filed testimony and exhibits. See also Order No. 2021-30, dated January 15, 2021 (memorializing the Directive).

¹ At the time Ms. Hux's affidavit was filed with the Company's Answer and Motion to Dismiss on October 20, 2020, her title was Supervisor – Customer Service-Quality Assurance. Effective January 1, 2021, Ms. Hux titled changed to Supervisor – Customer Account Management.

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On November 23, 2020, in response to the Directive, the Commission's Clerk's Office issued a Notice of Rescheduled Hearing, establishing March 3, 2021, as the new hearing date. That same day, the Commission's Clerk's Office issued its Prefile Testimony Letter, which required, among other things, Mr. McFadden to "prefile with the Commission 1 copy of the direct testimony and exhibits of the witnesses [he] intends to present and serve the testimony and exhibits of the witnesses on all Parties of Record on or before January 20, 2021. (must be post-marked on or before this date)." The Prefile Testimony Letter also stated as follows:

Please be advised failure to comply with the instructions contained herein could result in your proposed witnesses' testimony and exhibits being excluded in the subject proceeding. **Additionally, please note failure to comply with the above on or before the dates indicated may result in the DISMISSAL of your pleading.**

(emphasis added.)

As of the filing of this present Motion to Dismiss, the Company has not received any testimony and exhibits from Mr. McFadden, and no testimony and exhibits are included in this docket on the Commission's Docket Management System. As such, the Company respectfully requests that the Commission dismiss Mr. McFadden's Complaint for his failure to prosecute his case and comply with the instructions contained in the Commission's Prefile Testimony Letter.

In the alternative, the Company would request that the Commission enter judgment in favor of the Company based on the evidence in the record, which includes the sworn affidavits of Ms. Kent and Ms. Hux and the Certificate of In-Field Electric Meter Test (Exhibit A to the Company's Answer and Motion to Dismiss), Mr. McFadden's electric bills for service rendered from June 6, 2019, through October 6, 2020 (Exhibit B to the Company's Answer and Motion to Dismiss), and the Company's Billing Analysis of Mr. McFadden's account (Exhibit C to the Company's Answer and Motion to Dismiss).

The Company also takes this opportunity to inform the Commission that, after the Directive was issued, the Company twice contacted Mr. McFadden and again² offered him the opportunity to have DESC conduct another meter test with Mr.

² The Company reminds the Commission that, prior to filing this Answer and Motion to Dismiss, DESC offered Mr. McFadden the opportunity to have DESC conduct another meter test with Mr. McFadden and/or a representative of the South Carolina Office of Regulatory Staff ("ORS") present. However, an ORS representative was unable to attend due to restrictions on being in the field during the ongoing pandemic, and Mr. McFadden could not be present prior to the deadline for the Company to file its direct testimony in this docket. See Company's Answer and Motion to Dismiss, p. 2.

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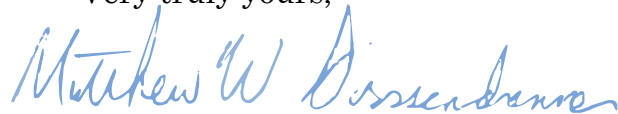
McFadden present. Mr. McFadden indicated that he was unable to schedule a time to be present for the test, and DESC asked Mr. McFadden to contact the Company if he desired to have the meter tested in his presence. As of the date of this letter, Mr. McFadden has not contacted the Company to schedule a time to have the meter tested in his presence.

While the Commission is considering DESC's request, the Company also requests that the Commission toll the hearing date and the deadlines for filing testimony for all parties in the above-referenced docket.

By copy of this letter, we are serving this motion upon Mr. McFadden as well as counsel for the ORS and enclose a certificate of service to that effect. By copy of this letter, we are also informing Mr. McFadden that, pursuant to Commission Regulation 103-829, his response to this motion is due within ten (10) days after service of the motion. According to our calculations, upon Mr. McFadden's response is due on or before February 4, 2021.

If you have any questions or concerns, please do not hesitate to contact us.

Very truly yours,



Matthew W. Gissendanner

MWG/kms

cc: Mr. Bernard McFadden
(via U.S. First Class Mail w/ enclosure)
Alexander W. Knowles, Esquire
(both via electronic mail and U.S. First Class Mail w/ enclosure)

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA

DOCKET NO. 2020-240-E

IN RE:

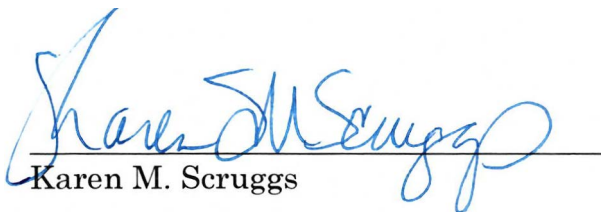
Bernard McFadden,)	
)	
Complainant/Petitioner,)	CERTIFICATE
)	OF SERVICE
v.)	
)	
Dominion Energy South Carolina, Inc.,))	
)	
Defendant/Respondent.)	
_____)	

This is to certify that I have caused to be served this day one (1) copy of Dominion Energy South Carolina, Inc.'s **Motion to Dismiss** via U.S. Mail to the persons named below at the addresses set forth:

Bernard McFadden
2016 Driftwood Drive
Columbia, SC 29210

Alexander W. Knowles, Esquire
Office of Regulatory Staff
1401 Main Street, Suite 900
Columbia, SC 29201

Cayce, South Carolina



Karen M. Scruggs

This 25th day of January 2021